

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Deputy Attorney General
3 KENT D. HARRIS
Supervising Deputy Attorney General
4 State Bar No. 144804
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-7859
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-986

13 **LESLIE TERESE BLASEWITZ**
14 **aka LESLIE TERESE HERRICK**
1100 Ashley Way
Susanville, CA 96130

ACCUSATION

15 Registered Nurse License No. 455116

16 Respondent.

17
18 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the Executive
21 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

22 2. On or about August 31, 1990, the Board issued Registered Nurse License Number
23 455116 to Leslie Terese Blasewitz, also known as Leslie Terese Herrick ("Respondent"). The
24 license was in full force and effect at all times relevant to the charges brought herein and will
25 expire on August 31, 2014, unless renewed.

26 **JURISDICTION**

27 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
28 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811(b), the Board
6 may renew an expired license at any time within eight years after the expiration.

7 STATUTORY PROVISIONS

8 5. Code section 2761 states, in pertinent part:

9 "The board may take disciplinary action against a certified or licensed nurse or deny an
10 application for a certificate or license for the following:

11 (a) Unprofessional conduct.

12 (4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
13 against a health care professional license or certificate by another state or territory of the United
14 States, by any other government agency, or by another California health care professional
15 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
16 action."

17 COST RECOVERY

18 6. Code section 125.3 provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licensee found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case.

22 FIRST CAUSE FOR DISCIPLINE

23 (Out-of-State Discipline)

24 7. Respondent is subject to discipline under Code section 2761(a)(4), in that effective
25 February 16, 2011, pursuant to a Final Order issued by the Oregon State Board of Nursing, in a
26 disciplinary proceeding titled, *In the Matter of the Proposed Five Year Probation of the*
27 *Registered Nurse License of: Leslie Terese Blasewitz, RN License No. 200441879, OAH Case*
28 *No. 1001680, Respondent's Registered Nurse License Number 200441879 was placed on*

1 probation for a period of five (5) years with terms and conditions. The Order was based on
2 numerous Findings of Fact and Conclusion of Law, including the following: 1) Respondent used
3 or had used alcohol to an extent or in a manner dangerous or injurious to herself or others and
4 therefore engaged in conduct derogatory to the standards of nursing. The Final Order is attached
5 hereto as **Exhibit A** and incorporated herein by reference.

6 8. Effective June 21, 2012, pursuant to a Stipulated Order for Voluntary Surrender of
7 Registered Nurse License ("Order"), issued by the Oregon State Board of Nursing, in a matter
8 titled *In the Matter of Leslie Terese Blasewitz, RN, License No. 200441879RN, Reference No.*
9 *12-02218*, Respondent voluntarily surrendered Registered Nurse License No. 200441879. The
10 Order was based on Respondent's failure to satisfy the terms and conditions of probation pursuant
11 to the Order set forth above in paragraph 7, as follows: 1) Respondent tested positive for alcohol
12 on April 26, 2012; and 2) in March 2010, Respondent moved to California, therefore she was
13 unable to complete the requirements of her probation.

14 **PRAYER**

15 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board of Registered Nursing issue a decision:

- 17 1. Revoking or suspending Registered Nurse License Number 455116, issued to
18 Leslie Terese Herrick, also known as Leslie Terese Blasewitz;
19 2. Ordering Leslie Terese Herrick, also known as Leslie Terese Blasewitz, to pay the
20 Board of Registered Nursing the reasonable costs of the investigation and enforcement of this
21 case, pursuant to Code section 125.3; and,
22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: April 29, 2013

24 *for* LOUISE R. BAILEY, M.ED., RN
25 Executive Officer
26 Board of Registered Nursing
27 Department of Consumer Affairs
28 State of California
Complainant

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Exhibit A

BEFORE THE OREGON
STATE BOARD OF NURSING

In the Matter of) STIPULATED ORDER FOR
Leslie Terese Blasewitz, RN	) VOLUNTARY SURRENDER OF
	) REGISTERED NURSE LICENSE
)
License No. 200441879RN	) Reference No. 12-02218

The Oregon State Board of Nursing (Board) is the state agency responsible for the licensure and regulation of Registered Nurses in the State of Oregon. Leslie Terese Blasewitz, hereinafter referred to as "Licensee" is a Registered Nurse in the State of Oregon. Licensee obtained her license from the Oregon State Board of Nursing through endorsement on September 16, 2004.

In November 2009, the Board received a complaint regarding Licensee's alleged use of alcohol at work and history of impairment. The Board began an investigation of the allegations. In December of 2009, Licensee entered a treatment program in Florida. On December 8, 2009, the treatment provider diagnosed Licensee with Alcohol Dependence. Her discharge summary noted an additional diagnosis of PTSD. Licensee's discharge plan included individual therapy, AA participation, and work with a sponsor. Board staff offered Licensee the opportunity to enter the Nurse Monitoring Program as an alternative to discipline. Licensee felt that a five year monitoring program was not appropriate for her situation.

On April 19, 2010, the Board issued a Notice of Proposed 5 year Probation of Licensee's Registered Nurse license. Licensee made a timely request for a hearing. A hearing was held on September 30, 2010 and October 1, 2010 in Portland, Oregon. Licensee appeared with counsel and testified. The record closed on October 1, 2010. On December 15, 2010, the Administrative Law Judge proposed that the Licensee be placed on probation for a period of five years. On February 16, 2011, the Board accepted the Proposed Order for 5 year probation.

Licensee was working as the Chief Clinical Officer at Columbia Memorial Hospital in Astoria when she started probation. In September of 2011, she resigned from that position with her last day of employment being November 30, 2011. After leaving her position, she was unable to find employment in Oregon. Licensee was given a job opportunity by a California employer and relocated there to begin her new position in March of 2012. Because she is no longer in Oregon, she will not be able to complete the requirements of her probation.

Licensee had been compliant with her Final Order prior to leaving Oregon. However on April 26, 2012, the probation monitor received a positive urine drug screen for ETG, a metabolite of alcohol. The Final Order specifies that Licensee shall abstain from use of intoxicating, mind altering, or potentially addictive drugs, including over the counter medication, prescription drugs, and alcohol during the period of probation. Licensee did admit to having a few glasses of wine on a recent trip.

The above conduct constitutes a violation of the provisions of ORS 678.111 (1) (f) and OAR 851-045-0070 (7) (d) which provides as follows:

678.111 Causes for denial, revocation or suspension of license or probation, reprimand or censure of licensee. In the manner prescribed in ORS chapter 183 for a contested case:
(1) Issuance of the license to practice nursing, whether by examination or by indorsement, of any person may be refused or the license may be revoked or suspended or the licensee may be placed on probation for a period specified by the Oregon State Board of Nursing and subject to such condition as the board may impose or may be issued a limited license or may be reprimanded or censured by the board, for any of the following causes:
(f) Conduct derogatory to the standards of nursing.

851-045-0070

Conduct Derogatory to the Standards of Nursing Defined

Nurses, regardless of role, whose behavior fails to conform to the legal standard and accepted standards of the nursing profession, or who may adversely affect the health, safety, and welfare of the public, may be found guilty of conduct derogatory to the standards of nursing. Such conduct shall include, but is not limited to, the following:

- (7) Conduct related to the licensee's relationship with the Board:
- (d) Violating the terms and conditions of a Board order.

Licensee admits to the above violations and wishes to cooperate with the Board in resolving the present disciplinary problem. She has elected to voluntarily surrender her Registered Nursing license.

THEREFORE, the following will be proposed to the Oregon State Board of Nursing and is agreed to by the licensee:

That the Voluntary Surrender of the Registered Nurse license of Leslie Terese Blasewitz be accepted. If, after a minimum of three years, she wishes to reinstate her Registered Nurse license, Ms. Blasewitz may appear before the Board to request reinstatement of her license as a Registered Nurse. She shall provide evidence that she is safe to practice nursing. Should the Board reinstate the Registered Nurse license of Ms. Blasewitz, she will be subject to whatever terms and conditions the Board may impose.

Licensee understands that this Stipulation will be submitted to the Board of Nursing for their approval and is subject to the Board's confirmation. Licensee understands that if approved, the Board will issue a Final Order adopting the Stipulation.

Licensee understands that this Stipulation will become a public record at such time as the Board issues an Order adopting it.

Licensee understands that by signing this Stipulation she waives any and all rights to an administrative hearing under ORS 183.310 to 183.550.

Licensee has read the Stipulation, understands the Stipulation completely, and freely signs the Stipulation.

Licensee agrees that she will not practice as a Registered Nurse from the date of her signature on this Stipulation.

Licensee, by her signature below, attests that she has read and understood this Stipulation for Voluntary Surrender, and declares that no promises, representations, duress, or coercion have been used to induce her to sign it.

IT IS SO AGREED:

Leslie Blasewitz
Leslie Blasewitz, RN

6/20/2012
Date

ORDER

IT IS SO ORDERED:

BOARD OF NURSING FOR THE STATE OF OREGON

Kay Carnegie
Kay Carnegie, RN, MS
Board President

6/21/12
Date

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
OREGON STATE BOARD OF NURSING

IN THE MATTER OF THE PROPOSED	) FINAL ORDER
FIVE YEAR PROBATION OF THE)
REGISTERED NURSE LICENSE OF:	) OAH Case No.: 1001680
	) Agency Case No.: 10-212
LESLIE TERESE BLASEWITZ, RN)
License No. 200441879)

HISTORY OF THE CASE

On April 19, 2010, the Oregon State Board of Nursing (Board) issued a Notice of Proposed 5-Year Probation of Registered Nurse License to Leslie Terese Blasewitz, RN, (Licensee). On May 7, 2010, Licensee made a timely request for a hearing.

On May 11, 2010, the Oregon State Board of Nursing referred the hearing request to the Office of Administrative Hearings (OAH). Senior Administrative Law Judge (ALJ) Robert L. Goss was assigned to preside at hearing. A prehearing conference was convened on July 14, 2010. The Board was represented by Assistant Attorney General (AAG) Joanna Tucker Davis. Licensee was represented by Alan Lave.

A hearing was held before ALJ Goss on September 30, 2010 and October 1, 2010, in Portland, Oregon. Licensee appeared with Mr. Lave as counsel and testified. The Board was represented by AAG Tucker Davis. Testifying on behalf of Licensee were Scott Ashley, M.D., Tara Dyrset, Cheryl Martin, Angela Naim, M.D., Janet Niemi, Mary Rose Pearsall and Guy Rivers. Testifying on behalf of the Board were Jennifer Quigley, Susan Graham, Barbara Oien, Kimberly Wood, Cheryl Martini, and Jerry Gjesvold. The record closed on October 1, 2010.

On December 15, 2010, ALJ Goss issued a Proposed Order in this matter. No exceptions were filed. In accordance with ORS 183.650(2) and -(3), and OAR 137-003-0665(3) and -(4), the Board must identify and explain those modifications to proposed findings of historical fact that change the outcome or basis for this Final Order from those in the proposed order. The Board has not made any changes that substantially modify the ALJ's proposed findings of historical fact or reasoning. The Board has made changes to correct spelling, grammar, and textual placement.

ISSUES

1. Whether Licensee used or has used alcohol to an extent or in a manner dangerous or injurious to herself or others and therefore engaged in conduct derogatory to the standards of nursing. *Former* ORS 678.111(1)(e)(f) and OAR 851-045-0070(5)(c).
2. If so, whether a five-year probation of Licensee's RN license is an appropriate sanction. *Former* ORS 678.111(1).

EVIDENTIARY RULING

Exhibits A1 through A6, offered by the Board of Nursing, were admitted into the record. Licensee's Exhibits R1 through R36 were admitted into the record.¹

FINDINGS OF FACT

1. Licensee is a Registered Nurse (RN) in the State of Oregon and obtained her license from the Board through endorsement on September 16, 2004. Licensee has no prior history of discipline with the Board. (Test. of Licensee; Ex. A3 at 1.)

2. From February 2005 to August 20, 2010, Licensee was the Chief Clinical Officer at Columbia Memorial Hospital in Astoria. Since that time, Licensee has been the Chief Clinical and Quality Officer for the hospital. Licensee manages the other nurses at the hospital. (Ex. R32; test. of Licensee.)

3. In November 2009, the Board received an anonymous report regarding Licensee's alleged use of alcohol at work. The report indicated that Licensee had a history of impairment and alcohol use, and that Licensee exhibited "variability in personality, being excessively happy or angry, abusive to co-workers and staff, appearance that is very disheveled, especially after days off." (Ex. A3 at 1.)

4. The Board began an investigation of the allegations, and asked Licensee's employer for her personnel records. The investigation revealed the following:

In July of 2006, Susan Graham, Professional Staff Coordinator at the hospital, reported to hospital management that she had observed Licensee during the weekend at the Rodeo located at the Clatsop County Fairgrounds, where Licensee appeared intoxicated. According to Ms. Graham, Licensee approached her in the parking lot, gave her a big hug, told her how good looking she was and "grabbed her butt." Ms. Graham felt that Licensee appeared to be obviously under the influence. When Ms. Graham asked Licensee about the rodeo on the following Monday morning, Licensee did not remember seeing Ms. Graham. (Ex. A1 at 1; test. of Graham.)

In August of 2006, Jennifer Quigley, currently the Director of Nursing Services at Columbia Memorial Hospital, reported to hospital management that she had observed Licensee at a "fluid and electrolyte replacement" meeting at a local bar. "Fluid and electrolyte replacement" is the term used when hospital staff got together after work at local drinking establishments to drink and socialize. At this gathering, Ms. Quigley saw Licensee give Ms. Quigley's husband a hug and whispered in his ear, "We should do this again after work sometime." Ms. Quigley's husband felt uncomfortable with Licensee's comment, and noted that Licensee had been drinking at the gathering. (Ex. A1 at 1, 2.)

In November 2006, Cindy Johnson, a hospital employee, reported to hospital management that she smelled alcohol on Licensee at a meeting during work. (Ex. A1 at 2.)

¹ Licensee's exhibits were submitted as Exhibits 1 through 36. To clearly distinguish Licensee's Exhibits from the Board's Exhibits, Licensee's exhibits will hereinafter be referred to as Exhibits R1 through R 36. *In the Matter of Leslie Terese Blasewitz*, OAH Case No. 1001680
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In May 2007, Barbara Oien, a nurse at the hospital, reported to hospital management that during a one on one work meeting with Licensee, she noted a distinct odor of alcohol on Licensee. Since reporting that incident to hospital management, Ms. Oien observed Licensee at a Christmas party in 2008 extremely intoxicated and slurring her speech. (Ex. A1 at 3; test. of Oien.)

On February 7, 2007, Licensee's supervisor, Terry Finklein, counseled Licensee about her drinking and public intoxication. Mr. Finklein explained to Licensee that he did not bring up this issue directly with Licensee when he became aware of it because Licensee was at the time being physically abused by her husband and going through a considerable personal crisis. He did not want to add to her stress. However, in the February 7 meeting, Mr. Finklein relayed to Licensee that the matter was serious, she needed to be aware of how she behaved in public, and her actions reflect directly on the hospital. Licensee told Mr. Finklein that she "likes her wine." (Ex. A1 at 5.)

5. In December 2009, Licensee, on her own volition, entered into an in-patient treatment program at PTA/Care in Florida. On December 8, 2009, PTA/Care documented a diagnosis of alcohol dependence for Licensee. Although Licensee believed she entered into the treatment program for emotional issues, PTA/Care noted that she was admitted for treatment for alcohol dependence. (Ex. 2.) Following her release from the PTA/Care program, Licensee began attending Alcoholics Anonymous (AA) meetings and was alcohol free for three months. (Ex. A2; test. of Licensee.)

6. As part of its investigation, the Board conducted an interview with Licensee on January 12, 2010. In that interview, Licensee told the investigator that she probably made some poor choices in the past when she went to a bar and drink on her days off. Licensee also stated that she remembered the events surrounding the complaint made about her drinking in May 2007 and that she had drank the night before going into work. Licensee explained that she was, at the time, dealing with pending divorce proceedings from her abusive husband. Licensee denied ever being intoxicated at work or drinking before work. Licensee stated that she has had times in her life where she drank more, and that 2006 was a good example of that. Licensee also noted that her employer had earlier offered help through its employee assistance program and a chance to get some addiction/recovery services if needed. Licensee also told the investigator that, although she did not feel like alcohol was a problem for her, she took advantage of an opportunity to improve herself and entered into a 28 day in-patient program in Florida. During the interview, the investigator discussed the Board's Nurse Monitoring Program (NMP), but Licensee said that because she had taken steps to improve herself and knew what her limitations were, she hoped the Board did not feel the need to put her in a five year monitoring program. (Ex. A3, A5.)

7. On January 28, 2010, the Board investigator contacted Licensee after receiving the documentation from PTA/Care regarding her diagnosis as alcohol dependent. The investigator relayed to Licensee that as a result of the investigation, the Board staff believed that a monitoring program was necessary, either through the NMP or through probation. Licensee did not believe a five year program was appropriate in her situation. (Ex. A3 at 2.)

8. Since approximately the spring of 2010 (April or before), Licensee has consumed alcohol again. This includes what Licensee deems "social" drinking, such as having a glass of wine with dinner, drinking during her 50th birthday party, drinking while visiting with her family and on a camping trip. (Test. of Licensee; Ex. A6 at 3, 4.)

9. The Board has issued a disciplinary policy for nurses on drug and alcohol problems. The Board has developed criteria for deciding whether the risk factors for licensed nurses with potential alcohol problems are high, moderate or low. A finding that a licensee has moderate risk factors would normally lead to the Board to place the licensee into a monitoring program until such time as the licensee demonstrates that he or she is able to safely perform nursing duties. If a licensee demonstrates only low risk factors, the Board will not require monitoring or any other intervention. If a nurse demonstrates high risk factors, the Board will usually sanction the licensee with a suspension or revocation. (Ex. A4 at 1, 2.)

10. The Board has also developed a list of risk factors that will lead to a determination that the licensed nurse is a moderate risk. Only one demonstrated risk factor is needed in order to conclude that a licensee is a moderate risk. Among those risk factors is having a diagnosis of substance abuse or dependence with a recommendation for treatment. (Ex. A4.)

11. The Board has also developed a list of risk factors that will lead to a determination that the licensee is a low risk. Only one demonstrated risk factor can lead to a determination of a low risk for a licensee. Among those risk factors is having a diagnosis of substance abuse or dependence, with evidence of treatment and sobriety of five or more years. (Ex. A4.)

12. On September 8, 2010, a Board investigator conducted another interview of Licensee. In that interview, the investigator was interested in learning about Licensee's progress in her individual therapy with Mary Rose Pearsall, a certified addiction counselor. Licensee was seeing Ms. Pearsall at least twice a month. Ms. Pearsall, after conducting her own assessment, determined that Licensee is not alcohol dependent, but that she has in the past abused alcohol. Ms. Pearsall recommended that Licensee continue going to Al-Anon meetings because Licensee found them very useful. Licensee also revealed that, although she had gone to several AA meetings after being released from the in-patient treatment, she stopped going to the meetings, because Licensee had not found them helpful to her. Licensee stated on September 8, 2010 that she had last consumed alcohol in August 2010, and had consumed alcohol on other occasions before then, after being released from the PTA/Care in-patient treatment program. Licensee asserted that she is very socially responsible in her drinking. (Ex. A6; test. of Rose.)

13. Licensee is a high-functioning person who has yet to encounter consequences at work because of her drinking. Several of Licensee's co-workers, friends and acquaintances have never observed Licensee impaired at work due to alcohol. (Test. of Gjesvold, Niemi, Martin, Nairn, Ashley, Rivers, Dyrset.)

CONCLUSIONS OF LAW

1. Licensee used or has used alcohol to an extent or in a manner dangerous or injurious to herself or others and therefore engaged in conduct derogatory to the standards of nursing.

2. A five-year probation of Licensee's RN license is an appropriate sanction.

OPINION

Jurisdiction to regulate the licensure and conduct of registered nurses in Oregon lies with the Board. ORS 678.111. The Board carries the burden to prove by a preponderance of the evidence to show the alleged conduct occurred, that the conduct was a violation of the applicable laws and rules, and, if so, that placing Licensee's RN license on probation is an appropriate sanction. ORS 183.450(2); *Harris v. SAIF*, 292 Or 683 (1982) (recognizing the general rule that

the burden of proof is on the proponent of the fact or position); *Co. Employment Div. 47 Or App 437 (1980)* (in the absence of legislation specifying a different standard, the standard of proof in an administrative hearing is preponderance of the evidence).

Violation

The Board regulates and supervises the practice of nursing, including disciplinary action regarding the license to practice of registered nurses. ORS 678.150. Former ORS 678.111, regarding causes for disciplinary action, including suspension of an RN's license, provides in relevant part that:

(1) Issuance of the license to practice nursing, whether by examination or by indorsement, of any person may be refused or the license may be revoked or suspended or the licensee may be placed on probation for a period specified by the Oregon State Board of Nursing and subject to such condition as the board may impose or may be issued a limited license or may be reprimanded or censured by the board, for any of the following causes:

* * * * *

(e) Use of any controlled substance or intoxicating liquor to an extent or in a manner dangerous or injurious to the licensee or others or to an extent that such use impairs the ability to conduct safely the practice for the which the licensee is licensed.

(f) Conduct derogatory to the standards of nursing[.]

As to use of intoxicating liquor that is injurious to Licensee or others, "Injurious" is defined as "inflicting or intending to inflict injury", "hurtful, harmful, detrimental". *Webster's Third New International Dictionary* 1164 (Unabridged 2002). An injury is "an act that damages, harms or hurts." *Webster's* at 1164. Here, the reported incidents of Licensee's impairment at work and at work related social event, are by this definition, injurious to her, and potentially injurious to others, including the nurses she supervises as well as the patients of those nurses.

The Board may discipline conduct by its licensees that is determined to be conduct derogatory to the standard of nursing. Regarding conduct derogatory to the standard of nursing, OAR 851-045-0070 provides, in relevant part:

Nurses, regardless of role, whose behavior fails to conform to the legal standard and accepted standards of the nursing profession, or who may adversely affect the health, safety, and welfare of the public, may be found guilty of conduct derogatory to the standards of nursing. Such conduct shall include, but is not limited to, the following:

(5) Conduct related to impaired function:

* * * * *

(c) Practicing nursing when physical or mental ability to practice is impaired by use of drugs, alcohol, or mind altering substances.

The Board has adopted a disciplinary policy regarding drug and alcohol abuse or dependency. (Ex. A4.) The policy assists the Board in determining both whether a nurse has committed a violation in regards to their alcohol consumption, and also assesses the level of

sanction to be imposed if: violation has occurred. The policy makes some assumptions: (1) that nurses who abuse or are dependent on substances and whose judgment may be impaired while caring for patients are at risk for harming patients; (2) that nurses with active alcohol use, abuse or dependence may affect their ability to safely practice nursing; (3) that the diseases of substance abuse and dependence are treatable diseases and the recovery process includes learning new behaviors, attitudes and life style which takes time after the initial treatment to assure that the person is in a stable state of recovery. The policy is written mostly in terms of evaluating applicants for nursing licenses, but is also applicable to nurses who are already licensed. (Ex. A4.) The policy categorizes nurses with drug or alcohol issues into three categories: nurses exhibiting High Risk Factors, Moderate Risk Factors, or Low Risk factors. Each category lists various factors, and if one or more factors are shown in that category, the nurse is assessed at that level of risk.

Licensee exhibits one or more Moderate Risk Factors, which, by terms of the policy, would usually lead to a term of probation until such time as the Board is satisfied that the licensee is able to safely perform the duties of a nurse. As found above, one of the Moderate Risk Factors is whether the licensee has a diagnosis of substance abuse or dependence with a recommendation for treatment. Licensee has such a diagnosis. Licensee also has a history of substance abuse/dependence which has not occupied the majority of her life, another Moderate Risk factor.

The Board, as was the ALJ, is not persuaded by Licensee's contention that the diagnosis of alcohol dependence is in erroneous or inaccurate. While Licensee has provided evidence from her current treatment professional that a more accurate diagnosis for Licensee is alcohol abuse, not alcohol dependence. Alcohol abuse is considered a lesser alcohol problem by the Board than alcohol dependence. But after reviewing the record as a whole, the ALJ concluded that the PTA/Care diagnosis of alcohol dependence is well-founded. The Board agrees with this conclusion. While alcohol treatment professionals may differ, as has been shown in this case, the Board may rationally choose to accept one professional treatment diagnosis over a competing diagnosis. There was no showing that the PTA/Care diagnosis was somehow inadequate or incompetent. PTA/Care was not a treatment facility chosen by the Board or otherwise influenced by the Board. PTA/Care was chosen by Licensee, who voluntarily entered into its assessment and treatment program.

Although Licensee has produced several witnesses who have not observed Licensee affected by alcohol at work, the evidence provided by other witnesses who have observed Petitioner affected by alcohol is persuasive. While there is no evidence that Licensee's alcohol dependence is a persistent and chronic problem, the record does demonstrate that Licensee has had episodes in the last few years where alcohol has been a problem. The Board has demonstrated a pattern of alcohol dependence.

Licensee's current position as Chief Clinical Officer for the hospital includes managing the other nurses and setting policy for the nursing staff. That is still the practice of nursing. Managing the activities of other nurses carries with it responsibility for the care that those nurses give to patients and for the other duties and responsibilities that those nurses carry out on a daily basis as part of their nursing practice. ORS 678.010(8).²

² ORS 678.010(8) defines the "practice of nursing" as:

"Practice of nursing" means diagnosing and treating human responses to actual or potential health problems through such services as identification thereof, health teaching, health counseling and providing care supportive to or restorative of life and well-being

The Board has demonstrated a violation of ORS 678.111(1)(e) and (f).

Penalty

The Board proposed, in its notice, a five-year probation, with treatment as recommended by PTA/Care, as well as abstention from alcohol. Licensee contended that, if a violation has been shown, a five-year probation is too harsh a sanction. Licensee also contended that an abstinence requirement during the probation is unreasonable.

Licensee contended that the evidence did not show that she is consistently a "problem drinker." The evidence and the Board's own position supports that conclusion. Rather, the evidence shows that when Licensee has stressors in her life, she sometimes responds by abusing or depending upon alcohol. Despite some evidence provided by Licensee that she was and is just a social drinker, the record belies that notion, with reliable evidence of instances in the past of an odor of an alcoholic beverage at work after a night of drinking, voluntary entrance into an in-patient treatment program, showing up with slurred speech and stumbling to a meeting, and perhaps most importantly, a diagnosis of alcohol dependence by PTA/Care and a diagnosis of alcohol abuse by Licensee's current treatment professional. That kind of drinking behavior is a valid concern to the Board, and warrants requiring Licensee to be monitored for a substantial period of time.

The Board does not assert that Licensee's work performance has significantly suffered from her drinking. The record shows that Licensee is, at most times, a high-functioning person, despite her drinking. As to whether Licensee has ever been affected by alcohol while on the job, Licensee denies that she has ever been impaired on the job due to alcohol consumption. However, there is evidence in this record, as noted above, supporting a conclusion that in the past Licensee's nursing practice has been affected by alcohol use.

When a licensee exhibits Moderate Risk factors, the licensee may be offered admission into a voluntary Nurse Monitoring Program in lieu of discipline. Licensee was offered the opportunity to enter into the Nurse Monitoring Program in this case, but declined. If Licensee will not voluntarily enter the Nurse Monitoring Program, the Board is authorized to place her on probation. The effect is the same, Licensee will be monitored by the Board while she has the opportunity to demonstrate that she has successfully dealt with her alcohol dependence.

Licensee also contended that a probation requirement that she abstain from alcohol use during the term of probation is unreasonable. Licensee's current treatment professional opines that Licensee can maintain her current alcohol use at a "social drinking" level without any fear of relapsing into dependence or abuse. The Board holds to a contrary position, arguing that abstinence from alcohol is a reasonable requirement for a nurse on probation for alcohol dependence. The Board's position is supported by the treatment recommendations from Licensee's in-patient PTA/Cares program.

A nurse with a diagnosis of alcohol dependence, or even abuse, can reasonably be required by the Board to demonstrate that she can live without alcohol, despite differing

and including the performance of such additional services requiring education and training which are recognized by the nursing profession as proper to be performed by nurses licensed under ORS 678.010 to 678.410 and which are recognized by rules of the board.

professional opinions. The record here demonstrates that Licensee periodically has had a lack of control over her drinking. The Board is well within its authority to require Licensee to demonstrate that she has control over her alcohol consumption by abstaining for a reasonable period of time. Petitioner's argument is not persuasive.

A five year probation of Licensee's Registered Nurse license, with treatment as recommended by the in-patient treatment program, abstaining from consuming alcohol and the other probationary conditions as stated in the April 19, 2010 notice is an appropriate sanction.

ORDER

The Oregon State Board of Nursing issues the following order:

Leslie Terese Blasewitz's Registered Nursing License shall be placed on PROBATION for a period of five years, with the following conditions:

1. She shall not violate the Nurse Practice Act (ORS 678) or the rules adopted thereunder.
2. She shall notify the Board, in writing, prior to any change of address or employment setting, during the probation period.
3. She will not look for, accept, or begin a new RN position without the approval of Board staff. This includes changes of the employer itself or changes within the facility or institution.
4. She shall only be employed in settings where she receives direct supervision by a registered nurse at all times.
5. She shall notify the Board of any citations, arrests, or convictions for any offense, whether felony, misdemeanor, violation, or citation within seven (7) days of the occurrence.
6. She shall present herself, in person, to designated Board staff for interviews on a monthly basis during the probationary period. Frequency of contact may be reviewed and may be revised periodically at the discretion of Board staff. A telephone interview may be substituted for a personal interview at the discretion of Board staff.
7. She shall inform current and prospective employers of the probationary status of her license, the reasons for her probation, and terms and conditions of probation. If there is a Nurse Executive, that person is to be informed of Licensee's probationary status.
8. The Nurse Executive will receive copies of the Stipulation for Probation and Board Order when Licensee is employed.
9. She shall be employed in a setting where her nursing supervisor agrees to submit written evaluations of work performance (on forms provided by the Board) at least every three-(3) months during the probationary period. Between regular reporting periods, the Nurse Executive or comparable person, shall inform the Board of any instance of Licensee's non-compliance with the terms and conditions of this Stipulation for Probation, or of any other concern there may be regarding Licensee's work-related conduct or personal

behavior that may affect her ability to practice as a Registered Nurse.

10. She shall not be employed by a temporary staffing agency or home health care agency during the probationary period.
11. She shall participate in the Board's random urine program. Failure to comply with the random urine program will result in an immediate removal from the performance of nursing practice and obtain an evaluation by a Board approved chemical dependence evaluator. The presence of unauthorized substances may be considered a violation of the terms and conditions of this stipulation. She understands that she will be financially responsible for the costs related to this testing.
12. She shall abstain from the use of intoxicating, mind altering, or potentially addictive drugs, both over the counter and prescription drugs and alcohol during the period of probation.
13. She shall follow all discharge recommendations from PTA/Care as outlined in her discharge plan, including but not limited to, individual and group therapy and AA meetings with proof of attendance.
14. She will notify any health care providers of the nature of her chemical dependence diagnosis, to ensure that her health history is complete, before receiving any treatment, including medical and dental treatment. She will provide a copy of this Stipulation to her provider. She may take medication for a documented medical condition, provided that she obtains such medication only by a legal prescription written by a person authorized by law to write such a prescription. She will notify the Board within 24 hours in the event she is prescribed such medication, and shall authorize the prescribing person to communicate with the Board about her medical condition. She shall produce the medical records pertaining to the medical condition and medication use.
15. She shall submit to tests to determine the presence of unauthorized substances, immediately upon request by the Board staff or her employer. The presence of unauthorized substances may be considered a violation of terms and conditions of this stipulation. She shall sign any release of information necessary to insure the Board will receive the results of such testing.
16. She shall cease the performance of nursing duties upon the occurrence of a relapse or at the request of the probation coordinator because of relapse or relapse behavior. Performance of duties may resume when approved by the probation coordinator, in consultation with her employer.
17. She is financially responsible for any costs incurred as a result of compliance with the terms and conditions of the Order.
18. She shall cooperate fully with the Board in the supervision and investigation of her compliance with the terms and conditions of this Order.

19. Should Licensee engage in conduct resulting in violations of law, or violations of the terms and conditions of probation, the Board may take further disciplinary action against Licensee, up to and including revocation of Registered Nurse License.

FOR THE BOARD OF NURSING
STATE OF OREGON

Patricia Markesino
Patricia Markesino, President

APPEAL

If you wish to appeal the final order, you must file a petition for review with the Oregon Court of Appeals within 60 days after the final order is served upon you. *See* ORS 183.480 *et seq.*

**BEFORE THE BOARD OF NURSING
OF THE STATE OF OREGON**

In the Matter of	)	NOTICE OF PROPOSED
	)	5-YEAR PROBATION OF
Leslie Terese Blasewitz, RN	)	REGISTERED NURSE
	)	LICENSE
)	
<u>License No: 200441879</u>	)	<u>Case No: 10-212</u>

To: LESLIE TERESE BLASEWITZ

The Board of Nursing proposes to place the Registered Nurse License of Leslie Terese Blasewitz (Licensee) on probation for a five-year period of time on the following grounds.

I

Leslie Terese Blasewitz (Licensee) is a Registered Nurse in the State of Oregon. She obtained her license through endorsement on September 16, 2004.

Licensee came to the attention of the Board on or about November 5, 2009, when she was reported for suspicions of alcohol abuse. Board staff received Licensee's personnel file and discovered several alcohol related complaints between May 2006 and June 2007.

Licensee met with Board staff and admitted she made some poor choices surrounding alcohol during the time of her divorce in 2006. In December 2009, Licensee voluntarily entered a 28-day in-patient treatment program in Florida.

Board staff received Licensee's chemical dependency assessment and discharge summary from the treatment program. Licensee was diagnosed with Alcohol Dependence with the recommendation for her to actively participate in the treatment program. She successfully completed the program and her diagnosis at discharge was Alcohol Dependence and Post Traumatic Stress Disorder (PTSD). Her discharge recommendations included individual, group therapy and AA meetings.

The Board alleges that Licensee used or has used alcohol to an extent or in a manner dangerous or injurious to herself or others, and therefore engaged in Conduct Derogatory to the Standards of Nursing in violation of ORS 678.111 (1) (e) (f) and OAR 851-045-0070 (5) (c)

II

ORS 678.111 Causes for denial, revocation, suspension of license or probation, reprimand or censure of licensee in the manner prescribed in ORS chapter 183 for a contested case:

(1) Issuance of the license to practice nursing, whether by examination or by endorsement, of any person may be refused or the license may be revoked or suspended or the licensee may be placed on probation for a period specified by the Oregon State Board of Nursing and subject to such censure by the Board, for any of the following causes:

(e) Use of any controlled substance or intoxicating liquor to an extent or in a manner dangerous or injurious to the licensee or others or to an extent that such use impairs the ability to conduct safely the practice for which the licensee is licensed.

(f) Conduct derogatory to the standards of nursing.

OAR 851-045-0070 Conduct Derogatory to the Standards of Nursing Defined.

Nurses, regardless of role, whose behavior fails to conform to the legal standard and accepted standards of the nursing profession, or who may adversely affect the health, safety, and welfare of the public, may be found guilty of conduct derogatory to the standards of nursing. Such conduct shall include, but is not limited to, the following:

(5) Conduct related to impaired function:

(c) Practicing nursing when physical or mental ability to practice is impaired by use of drugs, alcohol, or mind-altering substances.

III

The Board proposes to place the Registered Nurse license of Leslie Terese Blasewitz on probation for a five (5) year period of time on the basis of the violations of law and rule alleged in section I and II above. Probation will be contingent on performing the duties at the level of a Registered Nurse. Licensee must practice a minimum of 80 hours each month on probation in a setting where she is able to exercise the full extent of scope of duties in order to demonstrate whether or not she is competent.

Licensee must comply with the following terms and conditions of probation:

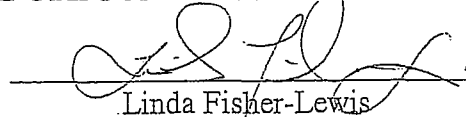
1. She shall not violate the Nurse Practice Act (ORS 678) or the rules adopted thereunder.
2. She shall notify the Board, in writing, prior to any change of address or employment setting, during the probation period.

3. She will not look for, accept, or begin a new RN position without the approval of Board staff. This includes changes of the employer itself or changes within the facility or institution.
4. She shall only be employed in settings where she receives direct supervision by a registered nurse at all times.
5. She shall notify the Board of any citations, arrests, or convictions for any offense, whether felony, misdemeanor, violation, or citation within seven (7) days of the occurrence.
6. She shall present herself, in person, to designated Board staff for interviews on a monthly basis during the probationary period. Frequency of contact may be reviewed and may be revised periodically at the discretion of Board staff. A telephone interview may be substituted for a personal interview at the discretion of Board staff.
7. She shall inform current and prospective employers of the probationary status of her license, the reasons for her probation, and terms and conditions of probation. If there is a Nurse Executive, that person is to be informed of Licensee's probationary status.
8. The Nurse Executive will receive copies of the Stipulation for Probation and Board Order when Licensee is employed.
9. She shall be employed in a setting where her nursing supervisor agrees to submit written evaluations of work performance (on forms provided by the Board) at least every three-(3) months during the probationary period. Between regular reporting periods, the Nurse Executive or comparable person, shall inform the Board of any instance of Licensee's non-compliance with the terms and conditions of this Stipulation for Probation, or of any other concern there may be regarding Licensee's work-related conduct or personal behavior that may affect her ability to practice as a Registered Nurse.
10. She shall not be employed by a temporary staffing agency or home health care agency during the probationary period.
11. She shall participate in the Board's random urine program. Failure to comply with the random urine program will result in an immediate removal from the performance of nursing practice and obtain an evaluation by a Board approved chemical dependence evaluator. The presence of unauthorized substances may be considered a violation of the terms and conditions of this stipulation. She understands that she will be financially responsible for the costs related to this testing.
12. Se shall abstain from the use of intoxicating, mind altering, or potentially addictive drugs, both over the counter and prescription drugs and alcohol during the period of probation.

13. She shall follow all discharge recommendations from PTA/Care as outlined in her discharge plan, including but not limited to, individual and group therapy and AA meetings with proof of attendance.
14. She will notify any health care providers of the nature of her chemical dependence diagnosis, to ensure that her health history is complete, before receiving any treatment, including medical and dental treatment. She will provide a copy of this Stipulation to her provider. She may take medication for a documented medical condition, provided that she obtains such medication only by a legal prescription written by a person authorized by law to write such a prescription. She will notify the Board within 24 hours in the event she is prescribed such medication, and shall authorize the prescribing person to communicate with the Board about her medical condition. She shall produce the medical records pertaining to the medical condition and medication use.
15. She shall submit to tests to determine the presence of unauthorized substances, immediately upon request by the Board staff or her employer. The presence of unauthorized substances may be considered a violation of terms and conditions of this stipulation. She shall sign any release of information necessary to insure the Board will receive the results of such testing.
16. She shall cease the performance of nursing duties upon the occurrence of a relapse or at the request of the probation coordinator because of relapse or relapse behavior. Performance of duties may resume when approved by the probation coordinator, in consultation with her employer
17. She is financially responsible for any costs incurred as a result of compliance with the terms and conditions of the Order.
18. She shall cooperate fully with the Board in the supervision and investigation of her compliance with the terms and conditions of this Order.
19. Should Licensee engage in conduct resulting in violations of law, or violations of the terms and conditions of probation, the Board may take further disciplinary action against Licensee, up to and including revocation of Registered Nurse License.

Dated this 19th day of April 2010.

FOR THE OREGON STATE BOARD OF NURSING



Linda Fisher-Lewis

Program Executive

Compliance, Investigation and Practice

Notice of Hearing Rights and Exhibit A attached